

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS

UNITED STATES OF AMERICA

v.

JOHN O. GREEN

§  
§  
§  
§  
§

Criminal No. 18-CR-00356

**DEFENDANT’S MOTION FOR NEW TRIAL BASED ON NEW EVIDENCE**

TO THE HONORABLE COURT:

COMES NOW, JOHN GREEN (“Defendant” or “Green”), through his attorneys of record, and respectfully moves, pursuant to Rule 33 of the Federal Rules of Criminal Procedure, for a New Trial and would show this Honorable Court the following:

**I. BACKGROUND**

John Green was convicted of Conspiracy to Defraud the United States based on actions that were argued to have “impeded the government’s ability to collect taxes” that were allegedly owed by his co-defendant, Thomas Selgas on January 15, 2020 (ECF 184). On February 17, 2020 Green filed a Motion for New Trial (ECF 210) that was denied on April 21, 2020 (ECF 230). Since then new evidence has surfaced.

**II. ARGUMENT**

Rule 33 of the Federal Rules of Criminal Procedure provides in pertinent part, “(a) Defendant’s Motion. Upon the defendant’s motion, the court may vacate any judgment and grant a new trial if the interest of justice so requires....” Fed. R. Crim. P. 33(a). *Accord United States v. Bowen*, 799 F.3d 336, 349 (5<sup>th</sup> Cir. 2015). In the interest of justice, for the reasons discussed below, the Court should grant Green a new trial. *See United States v. Powell*, 955 F.2d 1206 (9<sup>th</sup> Cir. 1991) (prejudicial trial error required reversal for a new trial).

Mtn for New Trial

The theory of the government's case was that John Green was hiding money in his trust account, that belonged to Thomas Selgas, to prevent the government from seizing it. Most of the funds the government alleged it was trying to seize, unsuccessfully, were as a result of an alleged tax bill against Thomas Selgas for calendar year 2005.

On March 02, 2020, the United States Tax Court granted the "Motion to Dismiss for Lack of Jurisdiction" because "no notice of deficiency or notice of determination was issued to petitioners for taxable year 2005..." (one of the petitioners is Thomas Selgas). (See Attached Order incorporated herein by reference, as Exhibit "A"). Obviously, this decision was not available to Green for use in his January 2020 trial. The Order negates the Government's case.

Accordingly, since the government's case was based on "notice of determination" as well as "notice of deficiency" at the very least, a jury should be advised that neither was ever issued. This evidence became available after the rendering of a verdict.

### **III. CONCLUSION**

For the foregoing reasons, Green respectfully requests a new trial on the conspiracy count against him.

Respectfully submitted on May 15, 2020.

MINNS & ARNETT

/s/ Michael Louis Minns

Michael Louis Minns

State Bar No. 14184300

[mike@minnslaw.com](mailto:mike@minnslaw.com)

Ashley Blair Arnett

State Bar No. 24064833

[ashley@minnslaw.com](mailto:ashley@minnslaw.com)

9119 S. Gessner, Suite 1

**Mtn for New Trial**

Houston, Texas 77074  
Telephone: (713) 777-0772  
Telecopy: (713) 777-0453  
*Attorneys for John Green*

**CERTIFICATE OF CONFERENCE**

This is to certify that I have conferred with the Government about the merits of this motion with the following results:

- The Government is opposed.

/s/ Ashley Blair Arnett  
Ashley Blair Arnett

**CERTIFICATE OF SERVICE**

This is to certify that on this the 15th day of May 2020, a true and correct copy of the above and foregoing instrument was served upon all counsel of record.

/s/ Ashley Blair Arnett  
Ashley Blair Arnett